



OAKLAND COUNTY EXECUTIVE L. BROOKS PATTERSON

HEALTH DIVISION

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Testimony to the Michigan House of Representatives, Committee on Local Government of Oakland County Health Division's Opposition to House Bills (HB) 5752 and 5753

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Date: December 5, 2018

Mr. Chairman and distinguished members of the Committee on Local Government, I am here representing the Oakland County Health Division which provides public health services for Oakland County's 1.2 million citizens.

Today I am speaking on the Oakland County Health Division's opposition of HB 5752 and HB 5753.

There has been no provision of compelling evidence that a statewide model for the regulation of onsite wastewater treatment systems reduces illicit discharges, improves water quality over time, or is more protective of human health than the current county/district sanitary code model. It is easy to argue that this Amendatory Act removes local controls in the form of removing existing regulations and guidelines and prevents creation of new regulations that have proven effective in counties or districts across the state. With varying soil conditions across the state, each local jurisdiction has developed codes to design and permit sewage disposal systems based on the need of their community. There are no data available to show that a statewide code provides greater protection than the customized codes that are based on local geology. There is evidence that point-of-sale programs are manageable at the local level, provide much needed consumer protections, and have significantly reduced the rates of failing systems over time.

The Oakland County Health Division has a strong sanitary code for the regulation of onsite wastewater treatment systems and enjoys a collaborative relationship with the Michigan Department of Environmental Quality (MDEQ). Effective legislation would provide the necessary funding to MDEQ for statewide training efforts, focused enforcement of existing Minimum Program Requirements of the Local Public Health Accreditation program at underperforming local public health departments, and advocacy for strengthening of weak sanitary codes. This can be done without compromising local health departments with strong sanitary codes in place, without the jeopardy of lowering standards already in place, and without the tremendous financial burden these proposed amendments will impose on citizens and health departments alike.

Negative Impacts to Oakland County:

- This Amendatory Act requires a tremendous amount of additional work to be completed by Oakland County Health Division (OCHD) personnel without adequate funding. The Act contains a provision for the inspection of Alternative Systems every five (5) years (Sec. 12805 (2)). It's estimated that Oakland County has over 700 alternative onsite wastewater treatment systems currently installed. Enforcement, permitting, and inspection burdens on OCHD and the County Prosecutor's Office would increase and there is no provision of substantial state funding for this unfunded mandate.
- Further, other sections of the proposed act will increase the workload of local health departments, including: conventional system evaluations upon request by a property owner, where a complaint or evaluation shows reasonable cause, where there is change of use, or there is an application for a building permit for a structure or addition (Sec.12810). Depending upon the availability of registered independent inspectors, this will put the burden for evaluations on the local health departments and is entirely unmanageable without increases in staffing. . The Act in no way establishes appropriate funding for the increases in work requirements or the needed staffing increases.
- Several provisions of the Amendatory Act will remove existing regulation, require revisions to the local Sanitary Code, and will grant the MDEQ authority to approve the local Sanitary Code as it relates to onsite wastewater systems. This eliminates the local authority and undermines powers and duties of the local health department to implement and enforce laws locally. In a unified form of county government, the Board of Commissioners has the authority to approve the local Sanitary Code (Sec. 12802, 12803, 12809, 12816). Further, the preemption established in Sec.12816 also limits local authority to implement enforceable consumer protections and eliminates requirements for remediation except in cases of imminent danger.
- This Amendatory Act requires the MDEQ to establish state-wide lists of registered evaluators (Sec.12811(6)) and to create and maintain a state-wide electronic database (Sec. 12812(2)). The MDEQ has no history in environmental health programs to effectively and efficiently develop, adapt or maintain an electronic database to meet program needs. For example, Noncommunity Type II Public Drinking Water Well program is still waiting on a reporting and tracking mechanism for program elements required by the Revised Total Coliform Rule effective April 2016. Without a comprehensive program database, onsite wastewater system evaluations will be tracked by the local health departments with no funding allocated. This issue has been, and remains unacceptable.
- The creation of a State Technical Advisory Committee (TAC) erodes local control and authority over the design, permitting, inspection and management of onsite wastewater treatment systems. It needs to be clear that TAC approvals, standards, and recommendations for proprietary and alternative systems do not automatically allow a proprietary or alternative system to be used in a county without also receiving county approval of the propriety product or alternative system (Sec. 12808). Further, the TAC role in the rule making process limits local input to four (4) Local Health Department representatives for a state with 45 local health departments (Sec. 12809).
- Lastly, the MDEQ does not currently have the budget or staffing to complete the mandates in this Amendatory Act. Beyond the enormous expense that MDEQ will realize just in the creation of electronic registration and system evaluation databases, there will be other expenses that MDEQ is

not in a position to absorb. For example, where a local health department is not authorized under Sec. 12802 and/or 12803, the MDEQ becomes responsible for the requirements of the Act. Adding to this burden, competency in Minimum Program Requirements is a requirement for authorization under Sec. 12802. This should require the MDEQ to de-authorize local health departments that do not meet Local Public Health Accreditation requirements. The MDEQ does not have the funding or staffing to administer this Act for even a single local health department, and again due to complete lack of assurances of appropriate funding, will find no incentive for other local departments to contract with MDEQ to do the work. Further, Sec. 12802 requires soils training by MDEQ or other authorized entity. The MDEQ has never been able to meet the training needs of the State with current funding and staff.

Please note, these concerns are based on language that is contained in the two bills. We have no way of knowing what additional responsibilities may be placed on local health in the rule making process.

Thank you for allowing us to provide this testimony today. Again, I urge you to oppose both House Bills 5752 and 5753.

